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BEFORE THE ARIZONA CORPORATION COMMISSION

JIM IRVIN
Commissioner - Chairman
TONY WEST
Commissioner
CARL J. KUNASEK
Commissioner

IN THE MATTER OF THE
COMPETITION IN THE PROVISION OF
ELECTRIC SERVICES THROUGHOUT
THE STATE OF ARIZONA.

DOCKET No. RE-00000-C-94-165

ASARCO INCORPORATED, CYPRUS CLIMAX METALS COMPANY
AND ARIZONANS FOR ELECTRIC CHOICE AND COMPETITION'S
EXCEPTIONS TO RECOMMENDED ORDER DATED AUGUST 26, 1999

September 7, 1999

Arizona Corporation Commission

DOCKETED

SEP 07 1999

DOCKETED BY

Submitted by:

FENNEMORE CRAIG

Attorneys for ASARCO Incorporated, Cyprus
Climax Metals Company and Arizonans for
Electric Choice and Competition

1 Pursuant to A.A.C. R14-3-110(B), ASARCO, Incorporated, Cyprus Climax Metals
2 Company and Arizonans for Electric Choice and Competition¹ (collectively referred to herein as
3 "AECC") hereby submit their exceptions to the recommendations of Hearing Officer Jane Rodda
4 regarding the Electric Competition Rulemaking ("Recommended Order").

5 In Appendix B, Section II, p. 27 at line 3-5, the Recommended Order addresses R14-2-
6 1606. Specifically, the Recommended Order states: "...but as Staff pointed out, [UDCs] are not
7 required to offer Standard Offer Service to customers whose annual usage exceeds 100,000
8 kwh." However, the Staff analysis being relied upon in the Recommended Order is incorrect.
9 The proposed Rules state that UDCs must provide Standard Offer service, and the definition of
10 Standard Offer Service states that it is a service that is available to all customers in the UDC's
11 service territory.

12 R14-2-1606.A states:

13 On the date its service area is open to competition pursuant to R14-
14 2-1602, each Affected Utility or Utility Distribution Company
15 shall make available Standard Offer Service and Noncompetitive
16 Services at regulated rates. After January 1, 2001, Standard Offer
Service and Noncompetitive Services shall be provided by Utility
Distribution Companies who shall also act as Providers of Last
Resort.

17 The definition of Standard Offer Service states:

18 "Standard Offer Service" means Bundled Service offered by the
19 Affected Utility or Utility Distribution Company to *all* consumers
20 in the Affected Utility's or Utility Distribution Company's service
territory at regulated rates... [Emphasis added]

21 Clearly, as UDCs are required to provided Standard Offer Service, and since, by
22 definition, such service must be available to all consumers in the UDC's service territory, it

23 ¹ Arizonans for Electric Choice and Competition is a coalition of companies and associations in support
24 of competition and includes Cable Systems International, BHP Copper, Motorola, Chemical Lime, Intel,
25 Hughes, Honeywell, Allied Signal, Cyprus Climax Metals, Asarco, Phelps Dodge, Homebuilder's of
26 Central Arizona, Arizona Mining Industry Gets Our Support, Arizona Food Marketing Alliance, Arizona
Association of Industries, Arizona Multi-housing Association, Arizona Rock Products Association,
Arizona Restaurant Association, Arizona Association of General Contractors, and Arizona Retailers
Association.

1 follows that UDCs *must* provide this service to customers whose usage is greater than 100,000
2 kwh per year.

3 It appears that the erroneous analysis in Appendix B stems from the redundancy created
4 by the statement in R14-2-1606.A that UDCs “shall also act as Providers of Last Resort.” By
5 definition, Providers of Last Resort provide Standard Offer Service to customers whose usage is
6 100,000 kwh per year or less. Logically, the requirement to serve as Provider of Last Resort is
7 already included in the requirement to provide Standard Offer Service, but the use of the word
8 “also” in 1606.A clearly indicates that Provider of Last Resort service is intended to be offered *in*
9 *addition to* the requirement to provide Standard Offer Service. Since the Provider of Last Resort
10 requirement is intended to be “in addition to” the Standard Offer Service requirement, the
11 obligation to provide Standard Offer Service to customers whose usage is greater than 100,000
12 kwh per year is not diminished by the additional emphasis placed on Provider of Last Resort.
13 Further, if it was the intent of the Commission that UDCs were not to be obligated to provide
14 Standard Offer Service for customers whose usage is greater than 100,000 kwh, then the second
15 sentence of 1606.A would not have contained any reference to Standard Offer Service, as
16 Standard Offer Service for customers whose usage is 100,000 kwh or less is already included in
17 the Provider of Last Resort requirement in that sentence.

18 The interpretation of the Rule being asserted here by AECC is reinforced in both APS’
19 and TEP’s proposed settlements with customer groups, each of which provides a Standard Offer
20 option for all customers. Moreover, requiring that Standard Offer Service be available for all
21 customers is sound public policy. The purpose of the introduction of retail competition is to
22 provide customers with a choice. Removing the obligation to provide Standard Offer Service
23 would deprive customers of choice and serve no useful purpose. At a minimum, the Commission
24 should reserve judgment regarding any removal of the Standard Offer obligation until the
25 Commission has determined that all affected customers can obtain competitive service at
26 delivered prices that are comparable or superior to Standard Offer Service.

1 RESPECTFULLY SUBMITTED this 7th day of September, 1999.

2 FENNEMORE CRAIG, P.C.

3
4 By

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of the foregoing hand-delivered

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11 Arizona Corporation Commission

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